

# In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO COURT  
ADMINISTRATIVE RULES (I.C.A.R.) 23, 26,  
27 and ADOPTION OF NEW RULES 28 and 29

## ORDER AMENDING RULES

The Court having reviewed the report and recommendations of the Court Reporter Committee and the Administrative Conference to amend the Idaho Court Administrative Rules,

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Idaho Court Administrative Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That Rule 23 be, and the same is hereby, amended to read as follows:

### **Rule 23. Notes, files and records – Property of the district court.**

Any person who is removed by reason of the person's failure to pass a necessary or special examination, or ~~otherwise who leaves employment for any reason~~, shall forthwith and without delay turn over all notes, files and records concerning any cases, motions or other matters in which the person has taken part as a district court reporter to the ~~administrative judge~~ trial court administrator of the judicial district, and it is ordered that all such notes, records, files and information developed in connection with the person's duties as a district court reporter are the property of the district court and that the person shall be personally liable for any loss or destruction of said notes, records, files and information. In the event the preparation of a particular transcript is reassigned to another reporter, the court reporter shall forthwith and without delay turn over to the trial court administrator all notes, files and records concerning the particular matter that is to be transcribed.

2. That Rule 26 be, and the same is hereby, amended to read as follows:

### **Rule 26. Expenses of Court Reporters.**

(a) Expenses for facilities and supplies used by court reporters in performing their official court reporter duties are the responsibility of the county. In addition, it is recommended that the following be supplied by the county:

Stenograph paper

Ink and ribbons

Maintenance on steno writers, including support contracts

Typewriter (if needed)

Office furniture

Computer disks

Audio tapes

Online storage of stenographic notes and transcripts

Office Space (If the county does not have office space available in the courthouse for the court reporters to work, the Administrative District Judge or designee may authorize the court reporters to work out of their home.)

And any other supplies for making the record in the court room.

(b) Expenses for supplies used by court reporters when charging fees under Idaho Code §1-1105(2) is the responsibility of the court reporter. In addition, it is recommended that the following be supplied by the court reporters:

Hardware

Software support

Binding equipment

Paper

Toner

Copy costs

(If there is no commercial establishment to reproduce transcripts in the city where the trial or hearing is held, then the court reporter shall be allowed to use the copiers of the county and pay the actual costs of such copying.)

And any other supplies for making the official transcripts.

3. That Rule 27 be, and the same is hereby, amended to read as follows:

**Rule 27. Attendance of court reporters in district court –Electronic recording of proceedings - Transcripts.**

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(d) **Official transcripts.** When a court reporter stenographically reports court proceedings, the court reporter's certified transcript shall be the official transcript of the proceedings. If a court reporter has not reported a district court proceeding, a transcript or partial transcript prepared from the electronic recording of the proceeding becomes the official transcript of the proceeding for all purposes if it is prepared by the district court reporter or a transcriber under the control or supervision of the district court clerk and the transcriber executes a certificate of transcription attesting to its accuracy in the form prescribed by rule 83(k), I.R.C.P.

(1) Realtime transcripts. A realtime transcript is not an official transcript as defined under subsection (d) of this rule. Realtime services may be used for interpretive purposes, but cannot be cited to or used in any way as an official transcript.

(2) Electronic recording. An electronic recording is not an official transcript as defined under subsection (d) of this rule and cannot be cited to or used in any way as an official transcript.

(e) **Use of official transcripts of district court proceedings.** In all cases where a party desires to place in evidence a transcript or partial transcript of a district court proceeding, or disclose the contents of a transcript during the examination of a witness, the transcript must be an official transcript as provided in subsection (d) of this rule.

(f) **Estimate of Reporter's Fees - Filing.** Upon the conclusion of any trial in the district court, or proceeding in an administrative agency, the reporter shall estimate the cost of preparing a transcript of the trial or proceeding and shall certify the amount thereof in writing which shall be delivered to the clerk and filed in the file of the action or proceeding. In the event the reporter fails to so estimate the fees for a transcript within two (2) days from the conclusion of the trial or proceeding the estimated fees for preparation of the transcript shall be deemed to be the sum of \$100.00, unless the reporter shall thereafter file the reporter's estimated fees before the filing of a notice of appeal; provided, the reporter's estimated fee may be included in the minute entry of the hearing or proceeding or stamped or endorsed thereon.

(g) **Request for official transcript.** A request for an official transcript of a district court proceeding under this rule must be in writing, submitted to the court reporter or clerk of the district court, and provide substantially the following information: date of request; the proceeding, or portion thereof, to be transcribed; whether the requestor desires that the transcript be expedited; and the requested completion date. The transcriber shall notify the person requesting the transcript of the estimated date of its completion and the fee. Unless other arrangements are made with the approval of the district court reporter or district court clerk, the transcriber's fee shall be paid in full before delivery of the transcript to the person requesting it. Compliance with deadlines for the preparation of transcripts of proceedings for an appeal takes precedence over the preparation of transcripts made for any other purpose.

(h) **Emergency assistance.** In situations where a court reporter is not available due to death, illness, or absence of a court reporter, and after a good faith effort a replacement cannot be found, the presiding judge may, with or without a stipulation of the parties or their counsel of record, order the recording of any proceedings listed in paragraph (a) to be by electronic recording as the official court record until such time as the emergency has passed.

(i) **Office location and attendance.** District court reporters shall be available during regular office hours. The administrative district judge or designee may authorize a court reporter to work from an alternate location during regular office hours, provided the court reporter is available for court proceedings and may be contacted via a telephone or a call-in system, approved by the administrative district judge to report to court.

4. That a **NEW** Rule 28 be, and the same is hereby, adopted to read as follows:

**Rule 28. Supervision of court reporters – performance of duties.**

District judges are responsible for the direct supervision of their court reporters, including any reporter assigned to the judge for a particular proceeding, and ensuring adherence to the time standards adopted by the Supreme Court for the filing of appellate transcripts.

5. That a **NEW** Rule 29 be, and the same is hereby, adopted to read as follows:

**Rule 29. Filing of transcripts and extensions of time.**

(a) The reporter of any trial or proceedings shall prepare and lodge with the district court or with the administrative agency the requested transcript within the time limits set out in Idaho Appellate Rule 24. If the reporter is unable to meet this deadline an extension of time must be requested from the Idaho Supreme Court. An extension of time for the preparation and lodging of the transcript may be obtained by filing a motion for extension of time with the Idaho Supreme Court at least five days before the transcript is due unless good cause is shown for the failure to timely file a motion.

(b) In the event a transcript is 14 days past due, the clerk of the Idaho Supreme Court shall notify the court reporter, trial court administrator, administrative district judge and district judge responsible for supervising the reporter, and the trial court administrator shall take appropriate action which may include (a) imposing disciplinary action, (b) identifying another official reporter in the district who can provide coverage for court proceedings while the transcript is completed, (c) implementing a performance improvement plan that requires weekend and evening hours to complete the transcript(s), (d) identifying a different court reporter who will complete the transcript and be compensated as appropriate, or (e) with approval of the Administrative Director of the Courts, removing the court reporter from the courtroom until the transcript is complete and hiring a different court reporter to provide coverage for court proceedings. In the event a transcript is reassigned to a free lance court reporter, the court reporter must immediately turn over all notes of the particular proceeding to the trial court administrator. The trial court administrator shall notify the clerk of the Supreme Court of the action taken regarding the transcript, including the anticipated date of filing and any reassignment.

(c) The Supreme Court retains the inherent and overriding authority to remove and /or discipline any district court reporter or order the reassignment of preparation of a transcript as may be required for the management of court operations or in the interests of justice.


IT IS FURTHER ORDERED, that this order and these amendments shall be effective the first day of March, 2008.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Court Administrative Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause this Order to be published in one issue of *The Advocate*.

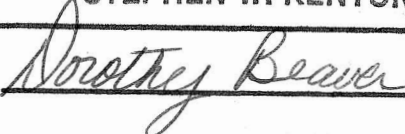
DATED this 3 day of January, 2008.

By Order of the Supreme Court

  
Daniel T. Eismann, Chief Justice

ATTEST:   
Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.  
WITNESS my hand and the Seal of this Court 1/3/08

STEPHEN W. KENYON  
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Clerk  
By:  Deputy